

A Board with Heart

Too Many DPM Heroes to Mention

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“What would you do if you were hired and found out the Board was corrupt?”

So I was asked in December 1989. Responding as a public administrator, I soon found the only questionable individuals were those making the accusations.

They had instigated Legislative Hearings in 1988 alleging BPM “selective enforcement.” Aside from the one Member resigning under a cloud in early 1990 (it was he who asked that question), the State Board of Podiatric Medicine Members and staff were honorable and courageous.

They resembled Carl Sandburg’s advice: “be brave and truthful, keep your poetry and integrity.”

This tradition was set by those serving earlier, as Board Members and consultants. BPM’s solvency was guaranteed by an \$800-renewal fee kicking in January 1, 1990. The residency requirement and oral clinical exam had accelerated your becoming a respected medical specialty. BPM had dedicated corps of examiners and experts.

Still, to a person, the Board Members felt in crisis. Under ranting attacks at every meeting, they called in State Police to maintain order December 8, 1989. By the second meeting in 1990 the three amigos causing the commotion stopped attending. One is now in prison.

By that time, we also settled a Superior Court case the AG had made a People’s action (with BPM still footing the bill), embracing the risks of a jury trial for greater “client control.” The settlement won BPM \$420,000 in cost recovery, but being civil rather than administrative it brought injunctions, not discipline.

Enforcement had been erratic. Staff put out a four-page, no-can-do apologia beginning, “There is a podiatrist in my community who is hurting people. Why don’t you do something?”

CPMA Board Members asked the same thing when I first met them.

BPM staff adopted a new mantra – “No Cover-ups. No Special Deals. No Selective Enforcement.” We reviewed and refuted every allegation. We resolved to go by the book, with no-nonsense enforcement, reminding anyone expecting anything less that we were a State agency.



We instituted a 24-hour rule for reviewing consumer complaints, rather than letting them sit for months.

We changed the management culture, and sought the same at the Medical Board, and even our Department of Consumer Affairs (DCA).

We were the first State agency to support the Presley bills beginning with SB 2375 of 1990 to reform physician discipline. Later, Senator Presley served two terms as BPM President upon his Legislative retirement.

We designed the “Medical Board Enforcement Matrix Report” that more than one MBC deputy director tried to kill. It brought unwanted scrutiny (“poking us in the eye!”) showing where cases were in the system and how long they had been there. “Nobody supports this,” the deputy executive director spit in my face, “except *you and your wife!*”

He was referencing my colleague at the Hearing Aid Dispensers Examining Committee, not imagining Board Members could possibly support it as well. A chief deputy director of DCA commented, “Board Members believe what their executive officers tell them.”

The Department and a public interest group urged backing off—suggesting it was counterproductive. The BPM Board Members wouldn’t have it, and the matrix is now a management staple.

Professional staff used it to clean up the MBC data base so the chiefs now have accurate data for management and reporting. Previously, the jumble of numbers was seen as a refuge. Accountability was perceived as a threat, not a tool for building credibility. “This is our data!” one exec said. To one Legislative request, they submitted a moving box full of unintelligible computer printouts. “They want data. We’ll give it to them!”

Returning to California after 20 years in Washington, DC and New York, I was taken aback by the professional discrimination as well as the management mindset of the Medical Board at that time. A Hispanic Member of our Board pulled me aside after one incident saying, “Jim, you are going to learn in this job what it is like being a person of color.”

But soon BPM was no longer seen as “podiatrists protecting podiatrists,” and podiatrists were being viewed as physicians.

Jim “Walk Your Talk” Conran, a case study as DCA Director, said in 1992, “This is a Model Board . . . setting examples I wish other boards would follow.”

One was national leadership strengthening DPM training programs. This began in the early 1990s when the law restricting DPM postgraduate training to two years jeopardized those going into third-year rotations, more and more common.

With support from the Department and senior staff of the Senate Business and Professions Committee, the Governor signed the Board’s bill extending the two years to four, over bitter opposition.

The deal involved an MBC review of podiatric training programs that one senior physician privately allowed later was expected to result in shutting them down. Rather, the *Nelson-Medio Report* (BPM insisted on a *joint* study co-authored by Franklin Medio, PhD with Tom Nelson, MD) recommended further strengthening, and transitioning to health science teaching centers.

"We asked you to do an objective study! Why are these results so rosy?" sputtered one red-faced Medical Board Member.

Taking the report to heart, buoyed with hope, BPM initiated the California Liaison Committee and UC Access Committees. CLC continued under CPMA's leadership working with the schools, organized medicine and the leaders of our tax-supported, State health science teaching centers.

We are seeing results today, and CPMA is working for more. Nationally, not just in California, the residencies are now three-year minimum and include all the Nelson-Medio recommended components.

Back at the Medical Board, with allegations of shredding its complaint backlog, and *60 Minutes* sinking his predecessor, Executive Director Dixon Arnett, a close associate of Governor Wilson, was perhaps the best ever at MBC and the leader we were looking for. He rejected circling the wagons, and being defensive, reactive, passive, protected by the clout of medicine, taking the hits for the *status quo* and path of least resistance, knowing little would happen anyway except more bad press, erosion of credibility, and loss of public confidence.

We had outreached as supportively with the prior exec as we did with Arnett. But as "the family" dug in its heels, and BPM stayed with outsiders seeking change, we were labeled disloyal. Dixon was told, "Don't trust Jim."

We looked to the *Code of Ethics* adopted by Congress in 1958, "Put loyalty to the highest moral principles above loyalty to persons, party, or department." And we presented awards to some of the exemplary rank and file—people like now-retired investigators Ron Olson, Ted Maurino, and Joan Jerzak, naming a few of many.

Dixon said, "The BPM does not follow but, in fact, leads."

He argued against the grain that licensing boards are not MD or DPM organizations, but *State agencies*. We are chiefly accountable, he said, not to the professions, but to the public through its elected representatives. He saw public agencies acting properly in a fishbowl of scrutiny, not hunkered down keeping a lid on things.

Aiding Arnett, Conran had the Governor appoint BPM President Karen McElliott out of San Diego to the Medical Board. Though some protested "she is *not* a physician!," Karen became an MBC insider, the only person ever to serve as President of both boards. A strong period in the MBC's history lasted throughout her and Dixon's tenure and that of another thoughtful Public Member--Bruce Hasenkamp of San Francisco.

“BPM is operating efficiently and is carrying out its mandate for public protection effectively. . . . BPM is a consumer protection leader among the Department’s occupational licensing boards, and the recommendations made by BPM during the sunset review process continue this trend and are worthy of serious consideration,” said the Joint Legislative Sunset Review Committee in 1998.

BPM became the first and still only doctor-licensing board in the country to implement a Continuing Competence program. We became the first and still only one in California to write primary source verification into our statute. We became the first and only to implement the Department’s public disclosure standards, over bureaucratic resistance.

Throughout, almost without exception, the BPM Board Members led and stood firm. Neither depositions and 25 law suits in one case, nor an investigational cover-up in another, checked by the *Sacramento Bee* somehow getting the story, nothing, ever unsteadied the decks.

The Board stewarded BPM, to which so many have contributed, the institution being larger than all of us as individuals.

With CPMA’s landmark AB 932 (Koretz) of 2004, BPM became the first and still only doctor-licensing board in California requiring two years of post-graduate training for licensure, reflecting the long-held view of medical educators that one is insufficient.

Paul Koretz served on BPM between his time in the Legislature and the LA City Council. A magnet for leaders, BPM was also led in turn by Anne Kronenberg, portrayed in the movie *Milk*.

AB 932 carried another BPM provision from the Federation of Podiatric Medical Boards’ *Model Law*. It authorizes DPMs, as part of your scope, to function outside of that scope as assistant surgeons. This recognized the need of physicians and facilities for collegial collaboration for the benefit of efficient, quality patient care, and the fact that DPMs are like other medical specialists regardless of degree.

Recently, SB 1236 of 2012, increasing the cap on DPM postgraduate training from four years to eight, rather than sunsetting it altogether as approved by the Business & Professions Committees in both houses, was another compromise en route.

We compromised on legislation to move forward, but our principles are intact for fighting another day.

Staying on the high road, we will keep our poetry and integrity.